

Proposed Rules

Federal Register

Vol. 65, No. 205

Monday, October 23, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Docket No. FV00-984-2 PR]

Walnuts Grown in California; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Walnut Marketing Board (Board) for the 2000-01 and subsequent marketing years from \$0.0118 to \$0.0134 per kernelweight pound of assessable walnuts. The \$0.0016 increase is necessary because this year's estimate of assessable walnuts is about 13 percent less than last year's estimate. The Board locally administers the Federal marketing order which regulates the handling of walnuts grown in California (order). Authorization to assess walnut handlers enables the Board to incur expenses that are reasonable and necessary to administer the program. The marketing year runs from August 1 through July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by November 22, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; Fax: (202) 720-5698, or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or

can be viewed at: <http://www.ams.usda.gov/fv/moab.html>.

FOR FURTHER INFORMATION CONTACT: Toni Sasselli, Marketing Assistant, or Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487-5901, Fax: (559) 487-5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525-S, Washington DC 20090-6456; telephone: (202) 720-2491, Fax: (202) 720-5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 984 (7 CFR part 984), both as amended, regulating the handling of walnuts grown in California, hereinafter referred to as the "order." The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "Act."

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, California walnut handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable walnuts beginning on August 1, 2000, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any

handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule would increase the assessment rate established for the Board for the 2000-01 and subsequent marketing years from \$0.0118 to \$0.0134 per kernelweight pound of assessable walnuts. The \$0.0016 increase is necessary because this year's estimate of assessable walnuts is about 13 percent less than last year's estimate. Thus, sufficient income would not be generated at the current assessment rate for the Board to meet its anticipated expenses.

The order provides authority for the Board, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Board are producers and handlers of California walnuts. They are familiar with the Board's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999-2000 and subsequent marketing years, the Board recommended, and the Department approved, an assessment rate of \$0.0118 per kernelweight pound of assessable walnuts that would continue in effect from year to year unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other information available to the Secretary.

The Board met on September 8, 2000, and unanimously recommended 2000-01 expenditures of \$2,937,885 and an assessment rate of \$0.0134 per kernelweight pound of assessable walnuts. In comparison, last year's budgeted expenditures were \$2,967,356. The recommended assessment rate is \$0.0016 higher than the \$0.0118 rate currently in effect. The higher assessment rate is necessary because this year's crop is estimated by the California Agricultural Statistics Service (CASS) to be 245,000 tons (220,500,000 kernelweight pounds merchantable), which is about 13 percent less than last year's estimate. Thus, sufficient income would not be generated at the current rate for the Board to meet its anticipated expenses.

Major expenditures recommended by the Board for the 2000-01 year include \$2,382,455 for marketing and production research projects, \$305,250 for general expenses such as administrative salaries and insurance, \$165,380 for office expenses, \$59,800 for a production research director, and \$25,000 as a contingency. Budgeted expenses for these items last year were \$2,413,038 for marketing and production research projects, \$289,709 for general expenses, \$179,809 for office expenses, \$59,800 for a production research director, and \$25,000 as a contingency, respectively.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of California walnuts certified as merchantable. Merchantable shipments for the year are estimated at 220,500,000 kernelweight pounds which should provide \$2,954,700 in assessment income and allow the Board to cover its expenses. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year (\$ 984.69). The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and other information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may

express their views at these meetings. The Department would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2000-01 budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 5,000 producers of walnuts in the production area and about 48 handlers subject to regulation under the order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than \$500,000, and small agricultural service firms are defined as those having annual receipts of less than \$5,000,000.

Using an average f.o.b. price of \$2.10 per kernelweight pound of walnuts for the 1999-2000 marketing year, handlers would have had to ship more 2,380,953 pounds of walnuts to exceed sales of \$5,000,000.

Approximately 33 percent of the handlers shipped over 2,380,953 kernelweight pounds of walnuts and 67 percent shipped less than that amount during the 1999-2000 marketing year. Based on the foregoing, it can be concluded that the majority of California walnut handlers may be classified as small entities, excluding receipts from other sources. A majority of the California walnut growers also may be classified as small entities.

This rule would increase the assessment rate established for the Board and collected from handlers for the 2000-01 and subsequent marketing years from \$0.0118 to \$0.0134 per kernelweight pound of assessable walnuts. The Board unanimously recommended 2000-01 expenses of \$2,937,885. The recommended \$0.0016 increase in the assessment rate is

necessary because this year's estimate of assessable walnuts is about 13 percent less than last year's estimate. Thus, sufficient income would not be generated at the current rate for the Board to meet its anticipated expenses.

Major expenditures recommended by the Board for the 2000-01 year include \$2,382,455 for marketing and production research projects, \$305,250 for general expenses such as administrative salaries and insurance, \$165,380 for office expenses, \$59,800 for a production research director, and \$25,000 as a contingency. Budgeted expenses for these items last year were \$2,413,038 for marketing and production research projects, \$289,709 for general expenses, \$179,809 for office expenses, \$59,800 for a production research director, and \$25,000 as a contingency, respectively.

Prior to arriving at this budget, the Board considered information from various sources, such as the Board's Budget and Personnel Committee, Research Committee, and Marketing Development Committee. Alternative expenditure levels were discussed by these groups, based upon the relative value of various research projects to the walnut industry. The recommended \$0.0134 per kernelweight pound assessment rate was then determined by dividing the total recommended budget by the 220,500,000 kernelweight pound estimate of assessable walnuts for the year. This is approximately \$16,815 above the anticipated expenses, which the Board determined to be acceptable. Unexpended funds may be used temporarily to defray expenses of the subsequent marketing year, but must be made available to the handlers from whom collected within 5 months after the end of the year (\$ 984.69).

A review of historical information and preliminary information pertaining to the current marketing year indicates that the grower price for 2000-01 could range between \$0.50 and \$0.70 per kernelweight pound of assessable walnuts. Therefore, the estimated assessment revenue for the 2000-01 year as a percentage of total grower revenue could range between 2.0 and 2.7 percent.

Regarding the impact of this action on affected entities, this action would increase the assessment rate currently imposed on walnut handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the order.

In addition, the Board's meeting was widely publicized throughout the walnut industry and all interested persons were invited to attend and participate in Board deliberations on all issues. Like all Board meetings, the September 8, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, all interested persons are invited to submit information on the regulatory and information impact of this action on small businesses.

This rule would impose no additional reporting or recordkeeping requirements on either small or large California walnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: <http://www.ams.usda.gov/fv/moab.html>. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2000-01 marketing year began on August 1, 2000, and the order requires that the rate of assessment for each marketing year apply to all merchantable walnuts handled during the year; (2) the Board needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 984

Marketing agreements, Nuts, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 984 is proposed to be amended as followed:

PART 984—WALNUTS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 984 continues to read as follows:

Authority: 7 U.S.C. 601-674.

1. Section 984.347 is revised to read as follows:

§ 984.347 Assessment rate.

On and after August 1, 2000, an assessment rate of \$0.0134 per kernelweight pound is established for California merchantable walnuts.

Dated: October 17, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00-27107 Filed 10-20-00; 8:45 am]

BILLING CODE 3410-02-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 140

[Docket No. PRM-140-1]

RIN 3150-AB01

Criteria for an Extraordinary Nuclear Occurrence; Withdrawal of Proposed Rule and Denial of Petition for Rulemaking Submitted by the Public Citizen Litigation Group and Critical Mass Energy Project; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Withdrawal of a proposed rule and denial of petition for rulemaking; correction.

SUMMARY: This document corrects a notice of withdrawal of a proposed rule and denial of a petition for rulemaking, relating to criteria for an extraordinary nuclear occurrence, appearing in the **Federal Register** on October 17, 2000 (65 FR 61283). This action is necessary to correct a reference to the NRC's rulemaking website appearing in the **ADDRESSES** paragraph.

FOR FURTHER INFORMATION CONTACT:

David L. Meyer, Chief Rules and Directives Branch Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone 301-415-7162 (e-mail: dlm@nrc.gov).

Accordingly, in FR Doc. 00-26642, published at 65 FR 61283 on October 17, 2000, make the following correction:

1. On page 61283, column one, the last sentence in the **ADDRESSES** paragraph, the rulemaking website is corrected to read as follows: <http://ruleforum.llnl.gov>.

Dated at Rockville, Maryland, this 19th day of October, 2000.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 00-27254 Filed 10-19-00; 2:39 pm]

BILLING CODE 7590-01-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 416 and 422

RIN 0960-AF31

Supplemental Security Income; Disclosure of Information to Consumer Reporting Agencies and Overpayment Recovery Through Administrative Offset Against Federal Payments

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to modify the regulations dealing with the recovery of supplemental security income (SSI) overpayments made under title XVI of the Social Security Act (the Act). The modifications reflect statutory authority for the Social Security Administration (SSA) to selectively refer information about SSI overpayments to consumer reporting agencies and to recover SSI overpayments through administrative offset by the Department of the Treasury against other Federal payments to which the overpaid individual may be entitled. These collection practices would be limited to overpayments made to a person after he or she attained age 18 that are determined to be otherwise unrecoverable under section 1631(b) of the Act after the individual ceases to be a beneficiary under title XVI of the Act.

DATES: To be sure your comments are considered, we must receive them no later than December 22, 2000.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, Maryland 21235-1585, sent by telefax to (410) 966-2830, sent by e-mail to "regulations@ssa.gov," or delivered to the Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise Building, 6401 Security Boulevard, Baltimore, MD 21235-6401, between 8 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT:

Robert J. Augustine, Social Insurance Specialist, Office of Process and Innovation Management, Social Security Administration, 2109 West Low Rise